

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

IN RE:	)	Adversary No. 05-03372
Rose M. Dennis	)	Related Case No. 05-37200
Debtor	)	Judge Mary Ann Whipple
	)	<u>ANSWER AND COUNTERCLAIM</u>
Chase Manhattan Bank USA, NA	)	
Plaintiff	)	
Rose M. Dennis	)	
Defendant	)	

\* \* \* \* \*

Now comes the Defendant, Rose M. Dennis, by and through her undersigned counsel, and states as her answer to the Complaint as follows:

1. Defendant denies the allegations contained in paragraph one (1) for the reason that she is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

2. Defendant admits the allegations contained in paragraph two (2), three (3) and four (4).

3. Defendant realleges and incorporates by reference the answers to Plaintiff's Complaint contained in paragraphs one (1) and two (2) above, as if fully rewritten herein.

4. Defendant admits the allegations contained in paragraph six (6).

5. Defendant denies the allegations contained in paragraph seven (7), as she is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

6. Defendant admits the allegations contained in paragraphs eight (8), nine (9), and ten (10).

7. Defendant denies the allegations contained in paragraph eleven (11 ) and twelve (12).

8. Defendant denies the allegations contained in paragraphs thirteen (13), fourteen (14), fifteen (15), and sixteen (16).

#### **FIRST AFFIRMATIVE DEFENSE**

9. Defendant Rose M. Dennis states that the Plaintiff should be barred from recovery due to its own negligence and/or contributory negligence, that resulted in any damage that it incurred.

#### **SECOND AFFIRMATIVE DEFENSE**

10. Defendant states that Plaintiff itself set in motion the means and the ability for the Defendant to engage in the complained of conduct, for which it seeks to hold Defendant responsible, and as a result thereof, Plaintiff should be estopped from seeking any damages for the actions complained of.

**WHEREFORE,** Defendant requests that this court dismiss the Complaint at the Plaintiff's costs.

Respectfully submitted,

/s/ Elliot H. Feit  
Elliot H. Feit (0010873)  
Attorney for Defendant  
Rose M. Dennis  
930 Spitzer Building  
Toledo, Ohio 43604  
(419) 241-6285  
(419) 241-8003 (Facsimile)

#### **COUNTERCLAIM**

11. Defendant, Rose M. Dennis realleges and incorporates by reference all allegations set forth in paragraphs one (1) through twelve (12) of his answer, as if fully rewritten herein.

12. Defendant further states that the position of the Plaintiff is not substantially justified and that pursuant to 11 U.S.C. §523(d), Defendant is entitled to her costs expended and a reasonable attorney's fee for the defense of this action.

**WHEREFORE**, Defendant Rose M. Dennis, requests her costs and a reasonable attorney's fee for the reasons stated in this Counterclaim, as to be determined by the court at trial or a specific hearing thereafter, for the purpose of establishing the amount of the reasonable attorney's fees and costs.

Respectfully submitted,

/s/ Elliot H. Feit  
Elliot H. Feit (0010873)  
Attorney for Defendant  
Rose M. Dennis  
930 Spitzer Building  
Toledo, Ohio 43604  
(419) 241-6285  
(419) 241-8003 (Facsimile)

**CERTIFICATION**

This is to certify that a copy of the foregoing was mailed to Geoffrey Albrecht, Attorney for Plaintiff, 673 Mohawk Street, Ste. 203, Columbus, OH 43206, by ordinary U.S. Mail this 7<sup>th</sup> day of December, 2005.

/s/ Elliot H. Feit  
Elliot H. Feit,  
Attorney for Defendant  
Rose M. Dennis